

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

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SECURITIES AND EXCHANGE COMMISSION, :  
Plaintiff, : No. 08-cv-02979 (LAK) (GWG)  
v. : ECF Case  
BIOVAIL CORPORATION, EUGENE MELNYK, :  
BRIAN CROMBIE, JOHN MISZUK, and KENNETH :  
HOWLING, :  
Defendants. :  
:-----X

**NOTICE OF MOTION TO DISMISS**

PLEASE TAKE NOTICE that upon the accompanying memorandum of law in support of this motion, declaration, and attached exhibits, the undersigned counsel will move this Court before the Honorable Lewis A. Kaplan, at the United States District Courthouse, 500 Pearl Street, New York, New York, on a date and time to be determined by the Court, to dismiss the complaint under Fed. R. Civ. P. 9(b) or in the alternative, for a more definite statement under Fed. R. Civ. P. 12(e).

Dated: June 23, 2008

Respectfully submitted,

/s/ Shawn J. Chen

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